



Department of Defense INSTRUCTION

AD-A272 157



January 26, 1988
NUMBER 5410.16

ASD(PA)

SUBJECT: DoD Assistance to Non-Government, Entertainment-Oriented Motion Picture, Television, and Video Productions

- References:
- (a) DoD Instruction 5410.16, "Procedures for DoD Assistance on Production of Non-Government Motion Pictures and Television Programs," January 21, 1964 (hereby canceled)
 - (b) DoD Directive 5122.5, "Assistant Secretary of Defense (Public Affairs)," June 15, 1982
 - (c) DoD Instruction 5410.15, "Delineation of DoD Audio-Visual Public Affairs Responsibilities and Policies," November 3 1966
 - (d) DoD Directive 5500.7, "Standards of Conduct," May 6, 1987
 - (e) Title 31, United States Code, Section 9701

DTIC
ELECTE
NOV 08 1993

A

A. REISSUANCE AND PURPOSE

This Instruction:

1. Reissues and updates reference (a).
2. Implements the authority contained in references (b) and (c).
3. Outlines the policies and procedures governing DoD assistance to non Government theatrical and television motion pictures, television mini-series network, cable, syndicated television, or direct video release productions that are primarily entertainment-oriented.
4. Does not apply to productions that are intended to inform the public of fast-breaking or developing news stories.

B. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense (OSD), the Military Departments (including their National Guard and Reserve components), the Organization of the Joint Chiefs of Staff (OJCS), the Unified and Specified Commands, the Defense Agencies, and DoD Field Activities (hereafter referred to collectively as "DoD Components").

C. POLICY

It is DoD policy that:

1. Government assistance may be provided to an entertainment-oriented motion picture, television, or video production when cooperation of the producers with the Government results in benefitting the Department of Defense or when this would be in the best national interest, based on consideration of the following factors:

This document has been approved
for public release and sale; its
distribution is unlimited.

93-26817

a. The production must be authentic in its portrayal of actual persons, places, military operations, and historical events. Fictional portrayals must depict a feasible interpretation of military life, operations, and policies.

b. The production is of informational value and considered to be in the best interest of public understanding of the U.S. Armed Forces and the Department of Defense.

c. The production may provide services to the general public relating to, or enhancing, the U.S. Armed Forces recruiting and retention programs.

d. The production should not appear to condone or endorse activities by private citizens or organizations when such activities are contrary to U.S. Government policy.

2. The production company shall reimburse the Government for any additional expenses incurred as a result of assistance rendered. The producer shall be required to sign a written "Reimbursement Agreement" (see enclosure 1) with the appropriate DoD Component(s), and post advance payment or a sufficient "Letter of Credit" (see enclosure 2) to cover the estimated costs before receiving DoD assistance.

3. Operational readiness of the Armed Forces shall not be impaired. Diversion of equipment, personnel, and materiel resources shall be kept to a minimum, and shall only be on a non-interference with military operations and training basis.

4. There shall be no deviation from established DoD safety standards.

5. Official activities of military personnel in assisting the production must be within the scope of normal military activities. With the exception of assigned Project Officer(s) and Technical Advisor(s), official personnel shall not be assigned to perform functions outside the scope of their normal duties.

6. Official personnel services and DoD materiel shall not be employed in such a manner as to compete directly with commercial and private enterprises. DoD assets may be provided when similar civilian assets are not reasonably available.

7. All Government property and facilities used in the production shall be restored by the production company to the same or better condition as when they were made available for the company's use.

8. The production company shall provide proof of adequate industry standard liability insurance. The production company must also agree to hold the Government harmless in case of accident, injury, or loss of property in connection with DoD assistance to the project. Before filming, legally sufficient "Hold Harmless" agreements (see enclosure 3) shall be executed for each installation or command used as a location or providing assets to the picture.

9. Military personnel in an off-duty, nonofficial status may be hired by the production company to perform as actors, extras, etc., provided there is no conflict with any existing Service regulation. In such cases, contractual arrangements are solely between those individuals and the production company; however, payment should be consistent with current industry standards. The producer is responsible for resolving any disputes with unions governing the hiring of non union actors and extras. Military personnel accepting such employment shall comply with DoD Directive 5500.7 (reference (d)). The individual's uniform shall be worn only when it is used to identify the Military Service to which the individual belongs. DoD Components may assist the production company in publicizing the opportunity for employment and in identifying appropriate personnel.

10. DoD motion picture and video stock footage is available for purchase or loan when a production qualifies for assistance under the general principles outlined in subsection C.1., above.

11. Footage shot with DoD assistance and official DoD footage released for a specific production are not to be reused for or sold to other productions without DoD approval.

D. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Public Affairs) (ASD(PA)) is the sole authority for approving DoD assistance to non-Government motion picture, television, and video productions. DoD commitments shall be made by the ASD(PA), in consultation with the appropriate DoD Components, only after:

a. The project is found to qualify under the general principles outlines in section C., above.

b. The script and list of requirements (see subsection E.1., below) has been approved.

c. The producer has indicated an acceptable distribution agreement with a recognized distributor, or a capability to complete the production (i.e., completion bond or other industry-recognized guarantor of completion, such as the major studios or other source of financial commitment).

2. Heads of DoD Components shall develop procedures for implementing this Instruction and ensuring that the requirements of it are followed.

a. Before a producer officially submits a project to the Office of the ASD(PA) (OASD(PA)), DoD Components are authorized to assist non-Government producers, scriptwriters, etc., in their efforts to develop a script that might ultimately qualify for DoD assistance. Such activities could include guidance, suggestions, access for technical research, etc. DoD Components providing such assistance, however, are required to coordinate with and keep OASD(PA) informed of the status of such projects. DoD Components shall refrain from making commitments and rendering official DoD opinions until first coordinating through appropriate channels to obtain OASD(PA) concurrence in such actions.

JUL 20 1988	
5410.16	
from 58	
Index	
Date	Approved
A-1	

b. When a production has been approved for DoD assistance, the appropriate DoD Component shall assign a Project Officer (commissioned, noncommissioned, or civilian) who shall be designated as a representative of the ASD(PA). The Project Officer shall at a minimum:

(1) Act as liaison with the production company and DoD Components, maintain contact with the office of the ASD(PA) via appropriate channels, submit periodic progress reports and a comprehensive afteraction report to include a consolidated accounting of billing or payments for expenses incurred. In this regard, the Project Officer shall serve as the central coordinator for submitting bills to the producer and monitor the payments to the Government.

(2) Advise the production company on technical aspects and arrange for information necessary to ensure accurate and authentic portrayals of the Department of Defense.

(3) Maintain liaison with units and commands providing assistance to ensure timely arrangements consistent with the approved support.

(4) Coordinate with installations or commands providing assets to the production to ensure adequate insurance requirements are met and legally sufficient "Hold Harmless" agreements (enclosure 3) are executed before providing assistance.

(5) When DoD assistance to a production requires the production company to reimburse the Government for additional expenses, develop an estimate of expenses based on the Requirements List (see enclosure 4) and obtain signatures on the required "Reimbursement Agreement" (see enclosure 1) between the production company and DoD Component(s). The Project Officer shall also ensure the company posts advance payment or a sufficient "Letter of Credit" (see enclosure 2) to cover estimated expenses before filming DoD-assisted sequences.

(6) Coordinate with each installation or command providing assets to the production to ensure the production company receives accurate and prompt statements for charges assessed by the Government and that the Government receives sufficient payment for any additional expenses incurred to support the production.

(7) For Project Officers assigned to TV series, maintain close liaison with the producer and writers in developing story outlines. All story ideas considered for further development by the production company should be submitted via appropriate channels to OASD(PA) to provide the earliest opportunity for appraisal.

3. When considered to be in the best interest of the Department of Defense and the project, the assigned Project Officer shall be required to provide "on-scene" assistance to the production company. In such cases:

a. Assignment shall be at no additional cost to the Government. The production company shall assume payment of such items as travel and per diem when required.

b. Assignment should be for the length of time to cover preproduction requirements through completion of photography. When feasible, assignment may be extended to cover post-production stages.

c. Additional responsibilities shall include:

(1) Supervising the use of DoD equipment, facilities, and personnel.

(2) Arranging to attend pertinent preproduction and production conferences, being available during rehearsals to provide technical advice, being present during filming of all scenes pertinent to the Department of Defense, and attending screening of dailies.

(3) Ensuring proper selection of locations, appropriate uniforms, awards and decorations, grooming standards, insignia, and set dressing applicable to the military aspects of the film.

(4) Arranging for appropriate Technical Advisers to be present when highly specialized military technical expertise is required.

(5) Ensuring that the production adheres to the approved script and list of assistance requirements.

(6) Authorizing minor deviations from the approved script or list of assistance requirements, provided such deviations are feasible, consistent with safety standards and in keeping with the approved story line. All other deviations shall be referred for approval to OASD(PA) via appropriate channels.

(7) Suspending assistance when action by the production company is contrary to stipulations governing the project and to the best interest of the Department of Defense until the matter is resolved locally or by referral to ASD(PA).

(8) Attending the approval screening of the product, unless the appropriate DoD Component, OASD(PA), and the production company mutually agree otherwise.

E. PROCEDURES

1. Initiation of Request. The producer shall submit the following to OASD(PA):

a. A letter describing his or her proposal to produce a specific motion picture, television program, or video product, stating the story/project objectives and identifiable benefits for the Department of Defense.

b. A statement acknowledging that the producer has read and agrees to abide by this Instruction.

c. Five copies of the script for review and evaluation.

d. A detailed list of requirements in quadruplicate (see enclosure 4). If a detailed list is not available when the script is initially submitted, requirements should be stated in general terms at the outset. However, no DoD commitment shall be made until the detailed list of requirements is approved.

2. Script Review. The OASD(PA) shall coordinate the review of scripts submitted for production assistance consideration. The coordinated review shall include each Military Service depicted in the script, as well as DoD Components charged with oversight for germane issues (i.e., International Security Policy, Minority Affairs, Personnel, etc.). Although no commitment for assisting in the production is implied, OASD(PA) may provide, or authorize Components to provide, further guidance and suggestions for changes that might resolve problems that would prevent DoD assistance.

a. Television Series. Proposals for television series must include objectives and the format of the series and story treatment or other evidence of overall series content. OASD(PA), in consultation with the appropriate DoD Components, shall comment on the acceptability of material submitted; however, each episode must qualify individually under the provisions of the basic policy. Recognizing the critical time constraints in episodic television production, the designated Project Officer shall develop and coordinate a specific plan to expedite the review of scripts and film for each television series.

b. Stock Footage. In some cases, when small amounts of footage are needed and the subject is not of primary military interest, stock footage may be released when a producer submits an indication of how the official footage shall be used. Footage from completed DoD productions and animation shall not be released except by authorization of the ASD(PA). Requestors shall be required to furnish letters of indemnification on material when the original source cannot be determined.

3. Post Production Requirements

a. Review of Productions. When DoD assistance has been provided to a production, the production company must arrange for an official DoD screening in Washington, D.C. before delivery of the production for general public release. Preferably, this review should be before composite printing to facilitate any changes that may be required.

b. Credit Titles. Upon receiving the producer's notification of completion of photography, OASD(PA), in coordination with the appropriate DoD Components, may suggest appropriate wording or approve wording submitted by the producer to be used in the credit titles. The credit line shall be confirmed for final use only after the film has been officially reviewed at the DoD level.

c. Requests for Promotional Assistance. The ASD(PA) is the final authority for military participation in regional or national public events, under the authority contained in DoD Directive 5122.5 (reference (b)). Requests for promotional assistance should be forwarded via appropriate channels to OASD(PA) in sufficient detail to permit a complete evaluation.

d. Publicity Photos and Promotional Material. The producer shall provide to the OASD(PA) representative still photos and promotional material for historical purposes in documenting DoD assistance to the production. In order to permit documentation in both DoD and Military Service archives, a minimum of two copies of all such material shall be provided. Promotional materials that may be adapted for internal DoD information channels (news releases, base newspapers, etc.) should be provided at their earliest availability to permit timely distribution.

e. Prints of Completed Productions. When a production is determined to be of value to DoD information, education or training programs (non-competitive with commercial exhibition), the producer shall be obliged to furnish, on request, prints or duplicating material to the Department of Defense at a cost not to exceed processing and printing.

4. Billing Procedures. As stated in 31 U.S.C 9701 (reference (e)), production companies shall be required to reimburse the U.S. Government for additional expenses incurred as a result of DoD assistance.

a. The production company shall be provided with individual statements of charges assessed by each installation or DoD Component providing assets to assist in the production. Statements must be presented to the production company within 30 days of the end of the month in which photography is completed to ensure prompt and complete accounting of charges for DoD assistance. Reimbursements are to be restored to each specific account from which they are drawn to assist the production.

b. The production company shall be billed for only those expenses that are considered to be additional expenses to the Government. The assigned Project Officer shall serve as the central coordinator for submitting statements to the producer and monitor receipt of payment to the Government. The following factors and guidelines shall be used to determine costs that are to be reimbursed to the Government (see also enclosure 5):

- (1) Petroleum, oil, and lubricants for equipment used.
- (2) Resultant depot maintenance.
- (3) Expendable supplies.
- (4) Travel and per diem (unless paid directly to the member).
- (5) Civilian overtime.
- (6) Replenishment spares.
- (7) Lost or damaged equipment.
- (8) Commercial power or other utilities for facilities kept open beyond normal duty hours or in such cases where the production company's consumption of utilities is significant.

(9) Costs incurred in diverting or moving equipment to a specific location to support the production requirements.

(10) The production company shall be required to reimburse the Government for all flying hours related to production assistance, including takeoffs, landings, and ferrying aircraft from military locations to filming sites, except when such missions coincide with and can be considered legitimate operational and training missions.

(11) The production company shall not be required to reimburse the Government for military or civilian manpower (except for civilian overtime) when such personnel are officially assigned to assist in the production. This, however, does not apply to National Guard and Reserve personnel assigned in an official capacity, because these members must be called to active duty at additional cost to the Government to perform the assigned mission. Reimbursement for Guard and Reserve personnel in an official capacity shall be calculated at the composite rate for each individual's paygrade.

(12) Normal training and operational missions that would occur regardless of DoD assistance to a particular production are not considered to be chargeable to the production company.

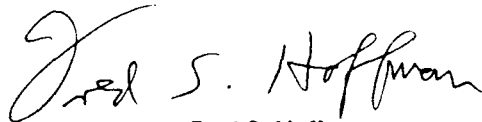
(13) Beyond actual operational expenses, no charges shall be levied for asset usage (i.e., rental and/or depreciation factors).

F. INFORMATION REQUIREMENTS

The public reporting requirement for Requesting Letter, Detailed DoD Requirements List, Publicity Photos and Promotional Material is assigned OMB Control Number 0704-0284.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Instruction is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Public Affairs) within 120 days.



Fred S. Hoffman
Principal Deputy Assistant Secretary

Enclosures - 5

1. Sample of Reimbursement Agreement
2. Sample of Letter of Credit
3. Sample of Hold Harmless Agreement
4. Detailed DoD Requirements List
5. Notes for Comptrollers

SAMPLE OF REIMBURSEMENT AGREEMENT

(To be composed on production company or studio letterhead)

1. Attached to this agreement is a list of requirements for the production of "(title)" that the Department of Defense has approved for its official support. This list also contains estimates of the expenses that the U.S. Government expects to incur as a result of providing assistance in support of each of these requirements. (Production company or studio) agrees to reimburse the U.S. Government for all such expenses, and agrees further, in anticipation of such reimbursement, to post (advanced payment or Letter of Credit) to (DoD organization providing support or as appropriate) in the amount of (as applicable).

2. It is understood that DoD property, facilities, equipment and personnel will be made available during the dates and times listed on the attached Detailed DoD Requirements List unless unusual and unforeseen mission requirements prevent such assistance. Minor deviations from the attached schedule may be necessary, but only as agreed to by mutual consent of (production company or studio) and the DoD installations and commands concerned.

3. The undersigned have read, understand, and agree to abide by DoD Instruction 5410.16.

4. DoD Components agree to send (production company or studio) invoices via the assigned project officer for the costs and the charges assessed as reimbursable to the U.S. Government for the assistance provided in connection with "(title)" not later than (date). In addition, if the aggregate of such costs and charges is less than the amount hereby posted, the Department of Defense agrees to enclose a check with such invoice in an amount equal to (amount posted), less such charges and costs.

(Signature)

(Date)

(Project Officer Signature)

(Date)

SAMPLE OF LETTER OF CREDIT

(To be composed on letterhead of bank issuing letter of credit)

(Number of Letter of Credit
and reference)

(Date)

Treasurer of the United States
c/o (Assigned Project Officer)

Dear Sir/Madam:

We hereby establish our irrevocable credit no. _____
in your favor by order and for account of (Name of production company or
studio and title of production) up to an aggregate amount of \$ _____
available by demand drafts drawn on us by a representative of (specific
DoD Component accounts providing reimbursable support). Drafts must be
accompanied by a written statement of the interested DoD Component that
the amount drawn under this credit represents the deposit required as a
guarantee that DoD assist in said production. Drafts drawn under this
credit must be marked, "DRAWN UNDER LETTER OF CREDIT NO. _____
OF (NAME AND ADDRESS OF ISSUING BANK)."

Except as otherwise expressly stated, this documentary credit is
subject to the "Uniform Customs and Practices for Documentary Credits."

We hereby agree with you that the drafts drawn under and in compliance
with the terms of this credit shall be duly honored on presentation to
(Name of bank) if presented on or before _____.

(Authorized signature of bank official)

(NOTE: Some banks use language that varies from that shown in the sample.
Variations from the prescribed text may be permitted if the meaning of
the letter of credit prepared by the bank is the same. Each of the
paragraphs of the prescribed letter of credit is an essential part of the
agreement. No paragraphs will be added and none will be deleted. Where
there is any doubt as to the acceptance of an irrevocable letter of
credit, obtain legal advice. Each letter of credit must be clearly
irrevocable and is not acceptable if the expiration date stated is less
than 30 days (stateside) or 90 days (overseas) from the end of the month
in which photography is expected to be completed.) FOR FURTHER INFORMATION:
Consult DoD 4160.21-M, "Defense Utilization and Disposal Manual," September
1982.

SAMPLE OF HOLD HARMLESS AGREEMENT

(To be composed on production company or studio letterhead)

Regarding the use of Department of Defense (DoD) facilities or equipment for production of "(title of project)," (production company/studio) shall indemnify, defend, and hold harmless the U.S. Government or others for any claim for personal injuries (including death) to the Government's officers, agents, servants, or employees, or to any other person, arising out of, or incidental to, the possession or use of the facilities or equipment. (Production company/studio) certifies they have maintained at their sole expense insurance governing this risk, including their liability to the Government, on account of bodily injury or death or property damage arising out of or incidental to their possession or use of property of the Government.

(Signature)

(Title)

(Date)

(Witness)

(Date)

(Witness)

(Date)

Jan 26, 88
5410.16 (Enc 4)

DOD REQUIREMENTS LIST

EQUIPMENT, MATERIEL & PERSONNEL REQUESTED	TO BE USED IN SCENE #	DATE/TIME	LOCATION	DESCRIPTION OF ACTION	DOD ESTIMATED COSTS

NOTES FOR COMPTROLLERS

1. DoD Components shall draw against the advanced payment or Letter of Credit posted by the production company such amounts as necessary to establish the budget authority required to replenish materiel and equipment as a result of DoD assistance to the production. Applicable amounts shall be credited to the specific appropriations accounts before incurring obligations to actually replace materiel and equipment.

2. Materiel and equipment costs shall be calculated at the acquisition cost or the estimated current replacement cost, whichever is higher.